

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**Building Code Appeals Board
Docket No. 05-443**

Nicole and Brian Carlson,)
Appellant)
)
v.)
)
City of Leominster,)
Appellee)
)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR §1204.1 of the Massachusetts State Building Code ("Code") with respect to finishing a basement area of a single family home located at 4 Grove Terrace, Leominster, MA ("Project").

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on July 24, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Shawn McCormack of Owens Corning/NEW was present at the hearing on behalf of Appellant. William Charpentier was present on behalf of Appellee.

Reasons for Variance

The issue is whether Appellant should be allowed a variance from 780 CMR §1204.1 in order to complete the Project. Section 1204.1 states:

Habitable (spaces) rooms other than kitchens shall have a ceiling height of not less than seven feet six inches (2286 mm). Hallways, corridors, bathrooms, toilet rooms, kitchens, laundry rooms and habitable basements that are only used as recreation rooms shall have a ceiling height of not less than seven feet (2134 mm) measured to the lowest projection from the ceiling.

The Project involves the installation of an Owens Corning Basement Finishing system where the finished ceiling height will be 6' 8" and soffit heights of 5'9", 5'10" and 6'3" will be

needed to finish around low sewer main and heating pipes in the basement. The Project will be a recreation room.

Appellee did not object to granting the variance. The Board acknowledged the hardship given the age of the home and existing constraints in the basement area.

Decision

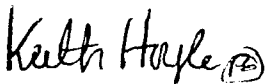
The Chair entertained a motion to grant the variance from §1204.1 on the condition that the basement area not be used as a bedroom ("Motion"). Following testimony, and based upon relevant information provided, Board members voted to allow the Motion, as described on the record. The Board voted as indicated below.

..... Granted ☐ Denied ☐ Rendered Interpretation ☐

X.....Granted with conditions ☐ Dismissed

The vote was:

____ Unanimous **X..... Majority**



Keith Hoyle



Alexander MacLeod



Harry Smith -Chair
[absent]

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: March 13, 2008

Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator
State Building Code Appeals Board
BBRS/Department of Public Safety
One Ashburton Place – Room 1301
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